California Regional Water Quality Control Board
San Francisco Bay Region

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Secretary for Environmental Protection

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Governor

Date: May 16, 2003
File No. 2178.07(EAC, HTK)
Site No. 02-41-C0305
ACOE No. 22454S

Mr. Mark Sanders
16075 Skyline Boulevard
Woodside, CA 94062

SUBJECT: CONDITIONAL WATER QUALITY CERTIFICATION FOR CONSTRUCTION OF WESTPOINT MARINA AND BOATYARD, REDWOOD CITY, SAN MATEO COUNTY, CALIFORNIA

Dear Mr. Sanders:

We hereby issue certification for your proposal to construct a new full service marina, boat maintenance area, and related facilities, known as Westpoint Marina, at the terminus of Seaport Boulevard, southeast of Redwood Creek and the Pacific Shores Center and south of Westpoint Slough in Redwood City on property formerly used by the Cargill Salt Company. Cargill currently operates salt evaporating ponds immediately to the west of the site. To the east and south across Westpoint Slough is Greco Island, a Federally protected wildlife area. You have applied for a Corps of Engineers individual permit pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344). You have applied to the Regional Board for a Clean Water Act Section 401 (33 U.S. Code 1341) water quality certification that the project will not violate State water quality standards.

Project: The overall purpose of the project is to provide a recreational marina with associated boatyard, retail and visitor center facilities at a scale and location suitable to serve the peninsula and southern regions of the San Francisco Bay Area. The marina is to contain approximately 408 slips, with 400 parking spaces provided for boaters and other visitors. Some of the recreational and boating amenities to be provided include pump out facilities, a fuel dock, the latest in float, walkway and utility design, guest docking, rowing boathouse, launch ramps, and an interpretive center. There are currently no boatyards or fuel docks remaining in the South Bay and most of the marinas have closed.

The actual marina and boatyard will occupy 42 acres. A large portion of the site is a historic salt pond (Pond 10) that contained bittern, a hypersaline waste byproduct of solar salt production. The combination of hypersalinity (11 to 12.5 times more saline than sea water) and ionic imbalance makes bittern toxic to aquatic organisms. Cargill had used Pond 10 to accumulate bittern from operations in Redwood City for several years. During the past two years, Cargill

has completed harvesting all liquid bittern and other by-products of the salt farming process from the marina project site in Pond 10 as part of its normal operations. Although the liquid bittern has been removed, approximately four to eight inches of bay mud containing bittern salts remains on the surface. This was confirmed by a geotechnical analysis completed in November 2002.

Marina Basin and Upland Fill Construction

The marina itself will be excavated to a depth of 15 feet below Mean High Water (MHW), far below the bittern-impacted region. The marina basin, encompassing about 25 acres, will require the excavation of approximately 295,000 cubic yards of bay mud sediments. The excavated material will be conditioned (dried out) and re-used on site to create the upland development area. This area will support roadways, boat maintenance, and other public and commercial facilities. Any bittern-impacted material taken from the marina basin, as well as the bittern salt crust on the surface of the upland development footprint, will be buried under several feet of clean bay sediment and will no longer be in contact with biota.

Cargill Salt Company has constructed a temporary berm between the marina property and the remainder of Pond 10 which will allow pumping of liquid from fill material dewatering into the remainder of Pond 10 where Cargill will process it. This berm also prevents movement of material from Pond 10 back into the marina site. Cargill has provided an additional 8 acres as an easement to provide a barrier between the marina and salt production activities on Cargill's property.

All stormwater as well as dewatering liquids will be captured inside the marina site in a borrow ditch that completely surrounds the site inside a continuous levee, which in turn separates the entire marina site from the Bay. All water and any dissolved salts generated during marina basin and upland construction activities will be pumped to Cargill for processing.

Once construction of the marina basin is complete, water from Westpoint Slough will be siphoned over the levee at high tide into the newly dug marina. When the marina basin is almost full, the levee between it and Westpoint Slough will be breached to create a 300-foot wide marina entrance. The material removed in breaching the levee and creating the access channel to Westpoint Slough will be placed on upland areas previously created on the project site.

Wetland Impacts and Proposed Mitigation: An existing drainage ditch containing wetlands subject to Section 404 jurisdiction extends along the westerly boundary of the project site, separating it from the Pacific Shores development. A total of 0.27 acres of jurisdictional wetlands will be filled to place 60-inch culverts to provide drainage where the primary and secondary access roads to the marina cross the drainage ditch and to replace the deteriorated tide gate where the ditch enters Westpoint Slough. To compensate for the loss of 0.27 acres of wetlands in the drainage ditch, you have proposed to enhance and enlarge the wetlands in the remainder of the ditch and to create additional wetland areas on isolated fringes of the project site for a replacement ratio of 1:1 or greater.

The project will also result in the loss of 2.3 acres of shorebird roost habitat. To mitigate for this impact approximately 3.0 acres of replacement roost habitat with similar functions and benefits for the birds will be created pursuant to plans approved by U.S. Fish and Wildlife

Service and the California Department of Fish and Game on Cargill property on the south side of the levee separating it from the marina.

No federally proposed or listed threatened or endangered species of plants or wildlife are known to inhabit the project area; however, several listed species including the western snowy plover, California clapper rail, and salt marsh harvest mouse occur on Greco Island located across Westpoint Slough from the project site. The shoreline of Greco Island in the vicinity of the project consists of broad shallow mudflats that severely restrict any boat or human access. You have proposed marking the channel and erecting signs informing the public not to enter sensitive areas, which is consistent with U.S. Fish and Wildlife Service requirements for the adjacent Pacific Shores Center with respect to its public launch ramp for non-motorized vessels. All consultations required under Section 7 of the Endangered Species Act were completed as part of the Corps application process.

California Environmental Quality Act: The dredging portion of the project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations, Section 15304(g). Pursuant to CEQA requirements, the Redwood City Planning Commission certified a Mitigated Negative Declaration that includes a Mitigation and Monitoring Plan on October 16, 2001.

Certification: I hereby issue an order certifying that, with the incorporation of the following conditions, any discharge from construction of Westpoint Marina will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. The following conditions are associated with this certification.

CONDITIONS

1. **Construction Stormwater Pollution Prevention Plan (SWPPP):** Adequate erosion and sediment transport control measures shall be implemented during the construction phase of the project. Because construction activities will result in disturbance of one or more acres, the project proponent shall prepare a SWPPP which will be designed to provide measures to mitigate any potential water quality impacts related to erosion and sedimentation associated with the proposed project. Activities to be addressed by the plan should include, but not be limited to, excavation of the marina basin, placement of the excavated material in Pond 10 to create upland portions of the marina site, and final site grading to prevent soil and sediment from being transported offsite via surface water runoff. A copy of the Construction SWPPP shall be kept on-site and available for RWQCB staff review during inspections. If requested, a copy shall be made available for review at the RWQCB office.

2. **Marina Water Quality Management Plan:**
As required by Mitigation Measure #34 of the CEQA Negative Declaration certified by the Redwood City Planning Commission, the applicant shall submit a water quality

management plan that addresses management measures identified by the State Water Resources Control Board and other state agencies to control nonpoint source pollution originating from marinas. Specific elements of operation and maintenance addressed by the plan should include:

a. Sewage Management – Design of pumpout, dump station, and restroom facilities to prevent the release of sewage to surface waters. Ease of access, signage to promote use by the boating public, and maintenance measures to keep these facilities in operational condition should be included in the design details.

b. Fueling Station Design and Operation – Design of equipment (tanks, leak detectors, shutoff valves, etc.) and operational procedures (operator training, spill prevention and response plan, etc.) to prevent spills and allow for ease of cleanup of any spills that may occur.

c. Control of Oil and Fuel Discharge from Boats - Measures to reduce the amount of fuel and oil that enters marina surface waters from boat bilges and fuel tank air vents. Examples of such measures include bilge pump-out facilities where the bilge-water pump is connected to an oil-water separation system, oil absorbent pad distribution and collection, and oil-change services that provide a closed system for evacuation of used motor oil.

d. Hazardous Waste Management – Design and maintenance of facilities to store, transfer, contain, recycle and dispose of liquid material (e.g. fuel, oil, solvents, antifreeze, paints) and solid wastes (e.g. oil filters, batteries, used absorbent pads) generated by users of the marina and boat maintenance areas. Ease of access, signage to encourage use, and methods for encouraging recycling should be included.

e. Vessel Cleaning and Maintenance Operations for Boats in the Water – Operations to prevent the release to surface waters of harmful products such as cleaners, solvents, and paint from both topside and underwater hull cleaning and maintenance.

f. Solid Waste Management - Measures to dispose of garbage and other solid wastes generated by marina operations and to encourage recycling to the fullest extent possible to prevent entry of solid wastes to surface waters.

g. Fish Waste Management – Measures to promote sound fish waste management. Examples include establishment of and enforcement of fish-cleaning restrictions, public education, and proper disposal of fish waste.

h. Boat Operation - Measures to prevent turbidity and physical destruction of shallow-water habitat resulting from boat wakes and propwash. Examples include establishment and enforcement of "no wake" and "off limits" zones.

i. Public Education – Design of education, outreach, and training programs for boaters and marina staff to encourage environmentally sound boating practices.

j. Stormwater Runoff Treatment – Design, operation and maintenance of treatment for stormwater runoff from impervious surfaces such as parking lots, roads, sidewalks, and roofs. Examples of design components that may be applicable include parking space maximization within a given area, use of landscaping as a stormwater drainage feature, and use of pervious pavements.

Due Date: The Marina Water Quality Management Plan shall be submitted no later than November 29, 2003.

3. **Mitigation Implementation and Monitoring Plan:** The applicant shall submit a final mitigation implementation and monitoring plan to mitigate for the project's permanent and temporary impacts to wetlands within the project site. The mitigation implementation and monitoring plan shall include (a) a schedule for mitigation implementation, (b) a proposed monitoring program to be conducted until mitigation is successful or until five years of post-implementation monitoring have been completed, whichever is longer, (c) proposed mitigation success criteria, and (d) a long-term maintenance program that adequately specifies the parties responsible for maintaining the created wetlands until mitigation is demonstrated to be successful.

   Due Date: The final Mitigation Implementation and Monitoring Plan shall be submitted no less than 30 days prior to the start of construction of the marina basin and upland fill areas.

4. **Annual Mitigation Monitoring Report:** The applicant shall also submit annual monitoring reports for the mitigation as described in the plan submitted pursuant to Condition #3 above. These reports, due January 31 of each the first five years after mitigation has been implemented (or if necessary, additional years until the mitigation is successful), shall include a description of problems encountered in the mitigation, and the proposed means to address these problems.

5. **NPDES General Industrial Stormwater Permit Notification:** Pursuant to Code of Federal Regulations Section 122.26(b)(14), boat building and repair facilities (SIC Code 3732) are subject to coverage under the NPDES General Industrial Stormwater Permit. The applicant shall submit either a Notice of Intent (NOI) for coverage under the General Permit, or a No Exposure Certification (NEC) certifying that there will be no industrial activities exposed to storm water at the marina boatyard facility (see Section D. Conditional Exclusion, of the General Permit).

Due Date: Notification regarding the status of coverage under the General Industrial Stormwater Permit shall be submitted no less than 30 days prior to commencement of industrial activities associated with the proposed boat maintenance area of the marina.

6. Upon completion of the project, the project proponent shall restore and revegetate all temporarily impacted habitats and work areas using native vegetation to their pre-construction condition and provide photos of the project site within 90 days of completing the project.

7. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the CWC and Section 3867 of Title 23 of the California Code of Regulations (23 CCR).

8. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

9. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833) and owed by the applicant. Board staff received the total required certification fee of $1,000 for filling 0.27 acres of wetlands on January 9, 2002.

We anticipate your cooperation in implementing these conditions. However, please be aware that Conditions 4 through 8, 10 and 11 above are formal requests for technical reports pursuant to California Water Code Section 13267. Also, any violation of water quality certification or WDR waiver conditions is subject to administrative civil liability pursuant to CWC Section 13350. Failure to meet any condition of a certification may subject you to civil liability imposed by the Board to a maximum of $1000 per day of violation or $10 for each gallon of waste discharged in violation of this certification.

We anticipate no further action on this request. Should new information come to our attention that indicates a water quality problem with this project, the Regional Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.If you have any questions, please contact Habte Kifle at (510) 622-2371 and e-mail hk@rb2.swrcb.ca.gov, or Elizabeth Christian at (510) 622-2335 and e-mail eac@rb2.swrcb.ca.gov.

Sincerely,